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December 13, 2023

VIA ECF

Hon. Ronnie Abrams
United States District Court Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

**Re: *Dukas v. Koninklijke Luchtvaart Maatschappij, N.V.*
Civil Action No. 1:22-cv-07962 -RA**

Dear Judge Abrams:

As you are aware, we are counsel for attorney Spencer Sheehan in relation to an Order to Show Cause, which was previously returnable before Your Honor on or about October 31, 2023.

Pursuant to Your Honor's Memo Endorsement, dated September 20, 2023, Defendant Koninklijke Luchtvaart Maatschappij, N.V. ("KLM") was given permission to file a response to Mr. Sheehan's papers by October 24, 2023. (Dkt. No. 38). Counsel for KLM did file said response on October 24, 2023. (Dkt. No. 41). Pursuant to the Memo Endorsement, on October 31, 2023, Mr. Sheehan filed a reply to KLM's response. (Dkt. No. 42).

Without seeking leave of this Court, on Friday, December 8, 2023, counsel for KLM filed a further letter in response to the Order to Show Cause. Respectfully, we submit that this Court should not consider KLM's impermissible sur reply as they were filed after the return date of the Order to Show Cause and without leave of this Court. *See e.g. Old Republic Ins. Co. v. Hansa World Cargo Serv., Inc.*, 170 F.R.D. 361, 369-70 (S.D.N.Y. 1997); *AA Med. P.C. v. Almansoori*, No. 20CV03852DGJMW, 2023 WL 4073772, at *2 (E.D.N.Y. June 19, 2023).

Moreover, the self-serving assertions raised in KLM's sur reply should be of no import to this Court. Since the relevant inquiry under Rule 11 is the merit of the signed papers, any ruling by a separate Court, in a separate matter, concerning a distinct set of pleadings (*see* Dkt. 44-1), should not impact this Court's analysis on the matter presently before it. *See ATSI Commc'ns, Inc. v. Shaar Fund, Ltd.*, 579 F.3d 143, 150 (2d Cir. 2009). Furthermore, KLM's attempts to litigate the merits of another complaint presently before the Eastern District of Michigan in this Court, where neither Mr. Sheehan nor his client in that case have the opportunity to respond, are plainly

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beyond the scope of this Court's inquiry. (*See* Dkt. No. 44-3). If KLM wishes to challenge the Complaint in that action, the proper venue is the Court where that matter was filed, not this Honorable Court.

We thank the Court for its anticipated attention to these matters. Should you have any questions or comments, please do not hesitate to contact me.

Respectfully yours,

COSTELLO, COONEY & FEARON, PLLC

A handwritten signature in blue ink, appearing to read "Daniel R. Rose", is positioned above the printed name.

Daniel R. Rose

DRR/cc